

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER DIVIDING AND CHANGING OWNERSHIP OF APPROPRIATION A-5790

WATER DIVISION 2-A

Background

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-5790 is currently held by Earl L. Nelson.
2. Appropriation A-5790 has a priority date of December 15, 1953, and authorizes the use of water for irrigation of the 29 acres of land described below. The water may be diverted from the North Loup River at a point of diversion located on right the bank of the stream in the NE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 23, Township 20 North, Range 15 West of the 6<sup>th</sup> P.M. in Valley County. The rate that water may be diverted shall not exceed one cubic foot per second (cfs) for every 70 acres irrigated at a maximum rate of 0.41 cfs. Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.

Township 20 North, Range 15 West of the 6 <sup>th</sup> P.M. in Valley County		Acres
Section 23: SE $\frac{1}{4}$ NE $\frac{1}{4}$		1
NW $\frac{1}{4}$ SE $\frac{1}{4}$		10
NE $\frac{1}{4}$ SE $\frac{1}{4}$		<u>18</u>
TOTAL		29

3. James R. and Virginia Knapp filed a Notice of Change of Ownership indicating that they are the owners of a portion of the land authorized to be irrigated by appropriation A-5790.
4. Gary and Rosemary Barta filed a Notice of Change of Ownership indicating that they are the owners of a portion of the land authorized to be irrigated by appropriation A-5790.

Order

IT IS HEREBY ORDERED:

1. Appropriation A-5790 is divided into two appropriations, A-5790A and A-5790B.

2. Appropriation A-5790A is held by Gary and Rosemary Barta.

- A. They are allowed to divert 0.14 cfs (63 gallons per minute) from the North Loup River to irrigate the 10 acres of land described below and as depicted on map number 17559 which is hereby made a part of this Order. The total rate that water may be diverted shall not exceed one cfs per 70 acres irrigated. Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.

<u>Township 20 North, Range 15 West of the</u> <u>6<sup>th</sup> P.M. in Valley County</u>	<u>Acres</u>
Section 23: NW $\frac{1}{4}$ SE $\frac{1}{4}$	10

- B. All terms and conditions of appropriation A-5790 remain in effect unless specifically changed by this Order.
- C. The point of diversion remains on the right bank of the North Loup River in the NE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 23, Township 20 North, Range 15 West of the 6<sup>th</sup> P.M. in Valley County. If the owners of appropriation A-5790A do not have access to this point of diversion, they must either obtain permission from the landowner or apply for a new point of diversion. This Order does not authorize access to the existing point of diversion.

3. Appropriation A-5790B is held by James R. & Virginia Knapp.

- A. They are allowed to divert 0.27 cfs (121 gallons per minute) from the North Loup River to irrigate the 19 acres of land described below and as depicted on map number 17560 which is hereby made a part of this Order. The total rate that water may be diverted shall not exceed one cfs per 70 acres irrigated. Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.

<u>Township 20 North, Range 15 West of the</u> <u>6<sup>th</sup> P.M. in Valley County</u>	<u>Acres</u>
Section 23: SE $\frac{1}{4}$ NE $\frac{1}{4}$	1
NE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>18</u>
TOTAL	19

- B. All terms and conditions of appropriation A-5790 remain in effect unless specifically changed by this Order.
- C. The point of diversion remains on the right bank of the North Loup River in the NE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 23, Township 20 North, Range 15 West of the 6<sup>th</sup> P.M. in Valley County. If the owners of appropriation A-5790B do not have access to this point of diversion, they must either obtain permission from the landowner or apply for a new point of diversion. This Order does not authorize access to the existing point of diversion.

Additional Information

Failure to comply with all laws and regulations pertaining to surface water appropriations, any orders issued by the Director of the Department of Natural Resources, or the provisions of this approval may cause cancellation of part or all of this appropriation, temporary closing of the appropriation, administrative penalty, criminal prosecution, or any combination thereof.

Nebraska law provides that failure to use an appropriation for more than five consecutive years may result in cancellation of the appropriation.

These appropriations are not a guarantee that water will be available. Nebraska law gives priority to senior appropriations. These appropriations may be closed if there is insufficient water to satisfy senior appropriations.

DEPARTMENT OF NATURAL RESOURCES

December 31 , 2009

/s/  
Brian P. Dunnigan, P.E., Director

The applicant and any person with sufficient legal interest who has been or may be substantially affected by this Order may request a contested case hearing in accordance with the Nebraska Administrative Procedures Act (Sections 84-901 et. seq. RSS) and the Department's Rules of Practice and Procedure (454 N.A.C. Chapter 007). The request must be received by the Department at its Lincoln office (301 Centennial Mall South, 4<sup>th</sup> Floor State Office Building, Lincoln, Nebraska 68509-4676) within 30 days of the date of the order and be accompanied by a filing fee of \$10.

A copy of this Order was posted on the Department's website. Copies of this Order and maps number 17559 and 17560 were provided to the Department's field office in Ord, Nebraska. Copies of this Order and maps number 17559 and 17560 were mailed on December \_\_\_\_\_, 2009, to the following:

James R. & Virginia Knapp  
81059 Highway 11  
Ord, Nebraska 68862

Gary & Rosemary Barta  
81859 Fort Avenue  
Elyria, Nebraska 68837